Approved For Release 2007/01/17: CIA RDP01-01773R000300010008-3 Hillenkoetter's Lawful Resort to Covert Action

July 26,1982 p. A14

To the Editor:

I have recently been shown your obituary article on Vice Admiral Roscoe H. Hillenkoetter (June 22), which contains a seriously misleading statement.

The article says that after the admiral became Director of Central Intelligence in 1947, his counsel rendered an opinion that there was no legal authority for the Central Intelligence Agency to carry out "covert activities" but that nevertheless the Director proceeded to do so.

I was general counsel at the time, and when the admiral requested my opinion, I first stated that in our governing legislation, the National Security Act of 1947, I could find no specific statutory language authorizing the conduct of covert operations, as opposed to intelligence activities.

The Director then asked me if there were other considerations, and I wrote an opinion that if the President, with his constitutional responsibilities for the conduct of foreign affairs, gave the agency appropriate instructions and if Congress gave it the funds to carry them out, the

agency had the legal capability of carrying out the covert actions involved.

The National Security Council, of which the President is chairman, then promulgated the required directives, and Congress appropriated the funds to carry them out.

Admiral Hillenkoetter never ignored or tried to influence any of my legal opinions, nor would he knowingly have acted contrary to law.

LAWRENCE R. HOUSTON Washington, July 9, 7982

given to me by Walter Pforgleiner

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Arthur Darling Interview with Adm. Hillenkoetter, Oct/Dec 1952 SECRET

perhaps it is irrelevant, but in 1952 Hillenkoetter emphatic in his opinion that Agency should have little to do w/covert action. Says guerrilla tactics should be kept as far away from clandestine intell collection as possible.

discussion during creation of CIG in early 1946 envisioned intell. agency in terms of coordination role.

in 1947, debates in Cong. on CIA assumed only a cooridnation role plus intelligence collection (both overt and covert) and analysis.

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on Nov. 24, 1947, HST assigns psychological warfare coordination to Sec. of State. Sec of State Marshall protests vehemently, and 3 weeks later, HST reversed himself and on Dec. 14, the NSC adopted NSC 4/A, which gave CIA resp. ofr covert psychological operations.

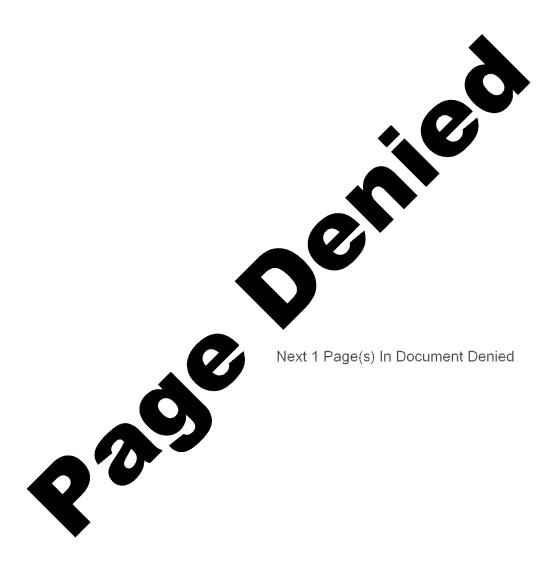
this occurred despite Hillenkoetter's conviction that such activities were rightly mil in nature and therefore should be carries out by a component of the JCS. Hillenkoetter furthemore believed that psychological warfare activities needed both cong. approval and cong-authorized funding. But Hillenkoetter's feelings ignored.

pp. 27-28

22 Feb 49

w WLP met w/ Sen. McClellan, chair of Sen. Committee on Expenditures in the Exec. Depts, and Rep. Dawson, chair of the House committee on Expenditures, re Hoover report on the National Security Organization. See memo to DCI, this date

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	20 Apr 48 DCI has instructed me to refuse to deliver to Congressmen Hoffman, chair of House Comm on Expenditures, any copies of Security Council directives. If Hoffman again asks for a copy of NSCID No. 2, he is to be informed that any request must be in writing and should be addressed to NSC as we operate under its direction and are w/out authority to release said info.	
		STAT
		•



1 Mar 48 -- deliverd monthly personnel figures to Sen.
Byrd. Byrd showed me the current report in proof, in which
a footnote to the figures of the NSC indicated "exclusive
of CIA personnel." A few lines further down, following the
word "others," were the CIA figures.
I told Byrd my feeling that this was a definite breach of
security, esp. as there was no ready answer to an inquiry
as to what "others" were. He said no one could tell from
this that they were CIA figures, and I said I thought it
was reasonbly obvious.
He then called in Mr. Bell of his staff to indicate our
opposition and to see whether some other arrangement could
be made. I pushed for their total elimination.
I also recommended that Gen. Wright or DCI call Byrd in

the next 24 hrs in an attempt to kill the entire figure.

11 Feb 1948 -- Sen. Byrd has requested a meeting bet. a rep. of his Jt. Comm. on Reduction of Nonessential Federal Expenditures, BOB, Civil Service Commission, and CIA. I have recommended to Col. Shannon, Capt. Ford and Gen. Wright that nothing could be served by such a meeting, which would result in BOB and ourselves lining up vs. the CIvil Service Commission and the Byrd Comm, and that DCI arrange for a personal appointment w/ Byrd to discuss the matter. Byrd and DCI met on 16 Feb.

11 Dec 1947

J.R. Blandford, General Counsel, House Mil Aff Comm, said that Subcomm # 3 was charged w/ keeping itself closely informed on the plans and operations of CIA, and that members of the Subcomm felt that they would like to talk w/ DCI. He stated that they would like to come down to CIA and that it might be politic in invite them to lunch, followed by a round table discussion w/ the DCI. He stated further that it might be a good idea if the DCI took the initiative and wrote a letter to the Chairman, inviting him and Mr. Vinson, the ranking minority member, and the members of the Subcomm for a visit.

4 Dec 1947

conferred w/ Col. Edwards re I & S paper on distribution of CIA material to the Congress. Informed him that the OGC could not concur w/ paper as written and suggested certain changes.



13 August 1947

"Discussed w/ George Moore, Gen Counsel, House Civil Service Comm, the clearance of certain personnel on the list furnished by him on 20 May 47. He indicated that the FBI had secured from the Comm all the info in its possession in each case. He further stated that the Comm would be interested to know on what basis we had cleared personnel on this list. I told him that the records in each case were not abailable to him."

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One of the continuer as concerned personnel strength of CIA.

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5 Oct. 1947, Sunday

"Spent some time in the Library of Congress reading on law & Congressional immunity." $\,$



Approved For Release 2007/01/17: CIA-RDP01-01773R000300010408/3HC 800 amendment of Espionage Act, 1948

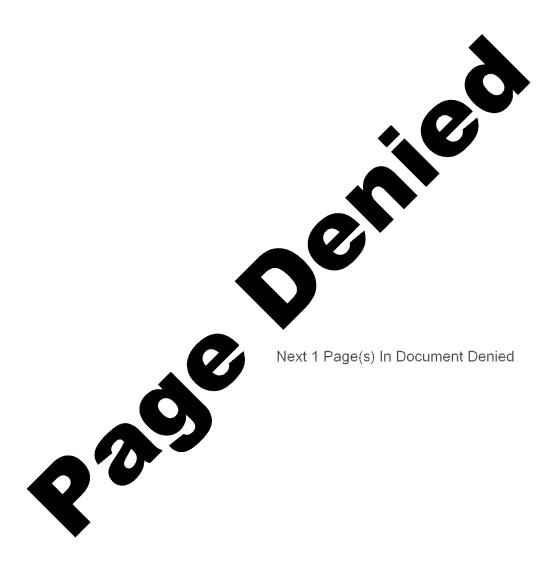
Arthur Darling interview w/ Lawrence Houston, 1953 SECRET

Houston wrote a memo a proposed amendment of the Espionage Act. The prob was to give such agencies as CIA and FBI stronger control over their personnel and others who might betray them. The difficulty was that the established law regarding "intent to injure" could not be removed. the whole plan for r-vision ran in to a decision of the Sup Ct on civil liberties and the country's tradional freedoms. but the real barrier to any revision was political—Cong would not agree to any tightening of the act.

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SECRET

for several yrs prior to Smith's coming on board in Oct 1950, ORE has accepted and honored requests for estimates from NSC and from its departmental members. and the finished reports were all "customarily" distributed, "broadly and in quantity," to the entire group of depts and agenceis represented on the NSC and the IAC, and occasionally to non-IAC agencies as well. [this says nothing abt Cong-I need to find out] p. 62



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Task Force on abt. Nov 15, 1948 submitted a
Confidnetial report to Hoover Commission entitled "The
Central Intelligence Agency, National and Service Intelligence," which compirsed 2nd chap. (pp. 25-60) of a longer
report (c. 250 pp) on the "National Security Organization."
++++a copy of chap. 2 is on file in O/DCI/ER

this 250 page report transmitted to Cong by Hoover on Jan 13, 1949 and remained unpublished. It should not be confused w/ a briefer, unclassified report, also entitled "Nat. Sec. Organization" (121 pp), published by Hoover Commission as Appendix G of its reports, nor w/ the Hoover's Commission's own report to Cong, also entitled "The Nat Sec Organization" (30 pp).

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applauds as "sound" the practice of withholding details on bedgetary matters from Bureau of the Budget and from Cong., but recommends more direct hand by NSC in reviewing CIA's budget in order to justify exclsuion of Cong and BOB.

NSC was to serve as buffer bet Agency and Cong. Whenever Cong asked DCI for info, "it should be established practice for him to refer the Q to the Nat Sec Council in order that it may deter mine whether or not disclosure is in the public interest."

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Approved For Release 2007/01/17: CIA-RDP01-01773R000300010008-3 cong and assignment of covert activity HS/HC 800

Arthur Dalring Interview w/ Hillenkoetter, Oct/Dec 1952 SECRET

Hillenkoetter again expresses his oppositon to having Agency engaged in covert operations. But adds he had not been given any choice on this; he had been overridden by NSC.

CIA's good relations w/ Cong at this pt was one of the reasons behind NSC actions in this regard. CIA engoyed good relations w/ Co ng and could get money more easily than State.

